

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE
COUNCIL, INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE
INTERIOR, UNITED STATES
DEPARTMENT OF COMMERCE,

Defendants.

18 Civ. 650 (OTW)

**STIPULATION AND ORDER OF
SETTLEMENT AND PARTIAL
DISMISSAL**

WHEREAS Plaintiff Natural Resources Defense Council, Inc. (“Plaintiff”), filed this suit in the United States District Court for the Southern District of New York pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking among other things the release of certain information by Defendant United States Department of Commerce (“Commerce”), in connection with an earlier administrative request, No. DOC-IOS-2018-000178, for the same information (the “FOIA request”);

WHEREAS Commerce released certain documents to Plaintiff in accordance with an agreed-upon production schedule;

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows:

1. Plaintiff hereby releases and discharges Commerce and the United States of America, including its agencies, departments, officers, employees, servants, and agents, from any and all claims and causes of action that Plaintiffs asserted, or could have asserted, in this litigation arising out of the FOIA request, except that Plaintiff’s claims in this litigation relating to the two FOIA requests submitted to defendant United States Department of the Interior are not released and remain pending.

2. Commerce shall pay to Plaintiff the sum of FIVE THOUSAND DOLLARS (\$5,000.00) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum Plaintiff agrees to accept as full payment of any attorneys' fees and costs Plaintiff has incurred or will incur in this action for services arising out of the FOIA request, performed up to the date of this Stipulation and Order.

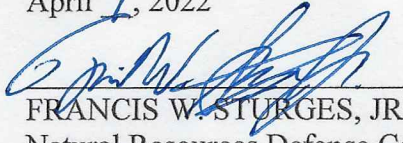
3. All claims against Commerce are hereby dismissed with prejudice and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction over any issues that may arise relating to this Stipulation and Order.

4. Nothing in this Stipulation and Order shall constitute an admission that the Commerce or the United States are liable for any attorneys' fees or litigation costs, or that Plaintiff "substantially prevailed" in this action under 5 U.S.C. § 552(a)(4)(E), or is entitled to or eligible for any attorneys' fees or litigation costs. This Stipulation and Order is entered into by the parties solely for the purpose of compromising disputed claims in this case and avoiding the expenses and risks of further litigation concerning Plaintiff's claims, including claims for attorneys' fees and litigation costs. This Stipulation and Order is non-precedential with respect to any other proceeding involving the parties, including, but not limited to, any other FOIA action or administrative proceeding, and shall have no effect or bearing on any pending or future request for records made by Plaintiff under FOIA.

5. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

6. The parties understand and agree that this Stipulation may be signed in counterparts, each of which constitutes an original and all of which constitute one and the same Stipulation. Facsimiles and/or PDFs of signatures shall have the same force and effect as original signatures and constitute acceptable, binding signatures for purposes of the Stipulation.

Dated: Chicago, Illinois
April 7, 2022


FRANCIS W. STURGES, JR.
Natural Resources Defense Council
20 N. Wacker Dr., Suite 1600
Chicago, IL 60606
T: (312) 847-6807
fsturges@nrdc.org

KATHERINE DESORMEAU
Natural Resources Defense Council
111 Sutter St., 21st Floor
San Francisco, CA 94104
T: (415) 875-6158
kdesormeau@nrdc.org

Attorneys for Plaintiff NRDC

Dated: New York, New York
April 7, 2022

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York
*Attorney for the United States
Department of Commerce*

By: 
ANTHONY J. SUN
Assistant United States Attorney
86 Chambers St., 3rd Floor
New York, New York 10007
(212) 637-2810
anthony.sun@usdoj.gov

SO ORDERED:

THE HONORABLE ONA T. WANG
UNITED STATES MAGISTRATE JUDGE